



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/942,023	08/30/2001	Toshiaki Sasamori	084234-0104	7281
22428	7590	10/18/2005	EXAMINER	
FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007				EMDADI, KAMRAN
			ART UNIT	PAPER NUMBER
			2667	

DATE MAILED: 10/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/942,023	SASAMORI ET AL <i>[Signature]</i>
	Examiner	Art Unit
	Kamran Emdadi	2667

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 27 July 2005.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-15 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

Response to Arguments

Applicant's arguments filed July 27, 2005 have been fully considered but they are not persuasive. Applicants' amendments to claims 1 and 3 including, "the second data communication transmitting data of a higher priority than the first data communication", and similarly the amendment to claim 8 are taught by the reference Sriram, as outlined below. Regarding the amendments to claims 5-7, these amendments do not overcome the teachings of Sriram, as outlined below. Further, the new claims also do not overcome the teachings of Sriram.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless —

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Sriram (U.S. Patent No. 5,463,620).

Regarding claims 1, 3 and 8, Sriram teaches a bandwidth allocation, transmission scheduling and congestion avoidance system. Figure 1 illustrates a plurality of nodes 10, 12...18 operating on a data communications network. The network includes a plurality of queues (see column 3, lines 47-49 and figure 5) that operate to distribute data via a queuing mechanism that provides both real and non-real time data transmissions (See Type 1A and Type 2 data described in columns 3-4). The

operation includes defining a predetermined time cycle D_c used to distribute data held in the queues for both real time and non-real time data distribution, where the data is distributed from a real time data queue during a first portion of the time cycle D_c and the remaining portion of the time cycle D_c is used to distribute non-real time communication data (see column 5, lines 65-67 and column 6, lines 10-24). The time cycle may be used repeatedly (see column 1, lines 30-32).

Additionally, Sriram teaches a low priority (see 74 of figure 7) and a high priority data transmission (i.e. Delay-Sensitive Non-Isochronous High Bandwidth Services) (see column 4, lines 10-26).

Regarding claims 2 and 4-7, Sriram teaches, in addition to the above described features, establishing a cycle time D_c by a dynamic time slice server DTS 48, and which is referenced in each communication cycle (see figure 6). Also, measuring the amount of data volume by allotting a specific time slice T_n to the data queue containing the specified type of data and selecting a specified number of cells from each queue (see column 6, lines 11-23).

Additionally, Sriram teaches a dynamic time slice server that operates to divide the amount of traffic volume to be transferred (see figure 5), the volume consists of the data separated by bandwidth requirements (e.g. low bandwidth services...delay insensitive HBS).

Regarding claims 9-15, Sriram teaches a cycle length used to allocate bandwidth for a data transmission (see 92 of figure 10)

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kamran Emdadi whose telephone number is 571-272-6047. The examiner can normally be reached on M-F between the hours of 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kamran Emdadi

October 14, 2005

Chi Pham
CHI PHAM
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2000
10/17/05